

1 **MINUTES OF THE COTTONWOOD HEIGHTS CITY**
2 **BOARD OF ADJUSTMENT MEETING**

3
4 **Thursday, November 29, 2007**

5 **6:30 p.m.**

6 **Cottonwood Heights City Council Room**
7 **1265 East Fort Union Boulevard, Suite 250**
8

9 **ATTENDANCE**

10
11 **Board Members:**

12
13 James Holtkamp, Chairman
14 Robert Good, Alternate
15 Paul Throndsen
16 Debbie Tyler
17 Noor Ul-Hasan
18 Bob Wilde
19

City Staff:

 Glenn Symes, Associate Planner
 Shane Topham, City Attorney

20 **REGULAR MEETING**

21
22 Chairman James Holtkamp called the meeting to order at 7:00 p.m.
23

24 **1. Public Comment.**

25
26 *(19:02:10) Board Member Wilde moved to ask the Secretary of the Board of Adjustment to get*
27 *an opinion from counsel and if in fact, it is not a legal requirement, to exclude the public*
28 *comment section from agendas in the future. Board Member Throndsen seconded the motion.*
29

30 City Attorney, Shane Topham, commented that allowing public comment might be something
31 included in the Board of Adjustment Rules of Procedure. For that reason he suggested the Board
32 move forward and allow him to determine whether the action is appropriate.
33

34 *Board Member Wilde moved that in the event that this is one of the rules, the City Attorney be*
35 *asked to alter that rule so that we are not required to have public comment as an item on the*
36 *agenda. If it is not one of the rules, we should ask our secretary to not put it on the agenda.*
37 *Board Member Throndsen seconded the amendment.*
38

39 If the item is determined to be required to be on the agenda, it was suggested that it be narrowed
40 down to allow comments that are only Board of Adjustment related.
41

42 *Vote on motion: James Holtkamp-Aye, Robert Good-Aye, Paul Throndsen-Aye, Debbie Tyler-*
43 *Aye, Bob Wilde-Aye, Noor Ul-Hasan-Aye. The motion passed unanimously.*
44

1 **2. Public Hearing – Variance Request – Bret Miller.**
2

3 (19:07:45) Chair Holtkamp reported that the request was for a 10-foot rear yard variance on
4 property located at 8479 South Danish Road. It was triggered by a 150-foot Metropolitan Water
5 utility easement located at least in part on the property.
6

7 Associate Planner, Glenn Symes, presented the staff report and stated that the request was for a
8 rear yard setback from 20 feet to 10 feet in the R-1-8 zone. Staff had addressed the requirements
9 for a variance as stated in the Utah State Code. Based on that observation, staff recommended
10 approval of the variance.
11

12 The applicant, Bret Miller, was present on behalf of Serdar Investments, which was the company
13 that purchased the lot just over two years prior. They were seeking a variance to be able to
14 utilize the property to its full intent. The intent was to develop a single-family residence on the
15 property. On a site map displayed, Mr. Miller identified the easement extending out into part of
16 Danish Road. They proposed to build a road to extend over the easement that was within the
17 guidelines of Metropolitan Water. No specific home plans had been submitted since the setback
18 would have an impact on the size of the home. Without the variance, the applicants would be
19 very limited in terms of what can be done. Without the variance, the home could be no larger
20 than 20 feet by 90 feet. With the variance they could get a 30-foot width on the home.
21

22 Mr. Miller explained that they had been in contact with United Fire Authority who designed the
23 road to accommodate a fire engine. At the top a large turnout would be required. Because of
24 that, they would be limited in terms of space as far as pushing the home to the north since they
25 would need the access to accommodate for fire protection. The minimum depth of the home
26 without the variance would be 20 feet. The Board was at a disadvantage as they did not know
27 how the applicant was impacted without seeing some type of site plan showing the possible
28 hardship.
29

30 The width necessary to accommodate a fire engine was 50 feet. The road could not start from
31 the north because they did not own the property. It was owned by Salt Lake County who was
32 unwilling to grant them an access through the area. It was recommended that the turnaround be
33 designed within the easement area. Mr. Miller stated that there were issues that prohibited their
34 slope on the road. Because the slope was so drastic, they would have to use the entire area in
35 order to get an approved slope for access to the property.
36

37 (19:16:50) Mr. Miller referred to the original submittal showing the actual building pad with the
38 granted easement. It was the building pad based on the road coming in and was 85 feet by 30
39 feet. The drawing did not show the turnaround.
40

41 The applicant stated that he was aware of the easement when he purchased the property. The
42 controller of the easement was the Bureau of Reclamation. He made application to them to put a
43 road through and put retaining on the road that they approved. Six months later, they turned over
44 control to Metropolitan Water. Metropolitan Water would not honor the previous commitment
45 made to Mr. Miller. For that reason he had to go through Metropolitan Water for the last year
46 negotiating and trying to comply with what they were asking to the point of legal action. They

1 finally settled and they were satisfied with the proposed design. They obtained approval from
2 Salt Lake utilities, United Fire Authority, and Metro Water. Cottonwood Heights City had also
3 approved their layout, which included the engineered plans for the road and the entire
4 infrastructure of the lot.

5
6 One Board Member had never heard of UFA requiring a turnaround on private property.
7 Mr. Miller responded that the explanation he was given was that the lane was long enough that
8 they would have to have some kind of access in addition to a fire hydrant on the property. The
9 slope was such that they had maximized the allowable parameters of slope on the road. They
10 had no other alternatives. In addition, the applicants would be required fire sprinkle the home in
11 order to get approval.

12
13 (19:23:27) Kevin Ludlow gave his address as 9055 South 1300 East in Sandy. He identified
14 himself as the property owner to the north of Mr. Miller. Based on the situation he was faced
15 with, he thought Mr. Miller's request was reasonable. He saw no reason not to approve the
16 request. Mr. Ludlow commented that he hoped to develop his property at some point.

17
18 There were no further public comments. The public hearing was closed.

19
20 One Board Member thought the applicant had a hardship and staff had shown reasoning why the
21 applicant could not build a proper home without the easement. There was some doubt that the
22 applicant could not build a 30-foot home with a 20-foot setback. Setback issues were discussed.

23
24 It was clarified that it was not a requirement for Mr. Miller to provide the Board with his home
25 plans before the variance is granted. One Board Member stated that the Board's decision needed
26 to be made based on whether it is a hardship or not. Another Board Member thought it was the
27 burden of the applicant to be able to establish certain specifics. He thought what the Board was
28 presented with was inadequate to convince him that the first three criteria had been met. It
29 seemed that much of the information that would help meet the burden existed but it was not
30 provided.

31
32 (19:34:27) ***Board Member Wilde moved to take no action on the matter and reschedule it and***
33 ***allow Mr. Miller to come up with the footprint and design for the road to help the Board feel***
34 ***comfortable with the fact that the applicant was faced with an unreasonable hardship and that***
35 ***circumstances with the property were different than with other property owners who have***
36 ***similar easement problems. Board Member Good seconded the motion.***

37
38 Mr. Topham's understanding was that the request was to bring in engineering drawings for the
39 roadway and determine how that impacts the building pad. He did not understand that the
40 request was to bring in elevations for the house. Board Member Good wanted to see them if they
41 existed. There was some concern that perhaps there was a possibility that a reasonable sized
42 house could be built in the area without the necessity of a variance.

43
44 Mr. Miller stated that a 20-foot wide home did not seem reasonable in his opinion. The Board
45 Members thought more information would help them understand the situation better. It was

1 suggested that the applicant provide a building permit relative to the road design and the
2 dimensions relative to the property lines.

3
4 One Board Member thought a 20-foot wide house was a definite hardship and simply wanted
5 Mr. Miller to show that that was actually what would be the case. Mr. Miller agreed to provide
6 the necessary information to the staff. Another meeting would be noticed and scheduled on the
7 matter. Chair Holtkamp noted that the Board had no interest in delaying the matter
8 unnecessarily. The Board would feel better, however, about seeing more details. He remarked
9 that until now, other variances involving similar situations had been accompanied by much more
10 detailed plans and specifications.

11
12 ***Vote on motion: James Holtkamp-Aye, Robert Good-Aye, Paul Throndsen-Aye, Debbie Tyler-***
13 ***Aye, Bob Wilde-Aye, Noor Ul-Hasan-Aye. The motion passed unanimously.***

14
15 A meeting was tentatively scheduled for Monday, December 10 at 6:30 p.m. to address the
16 matter.

17
18 **3. Action Item – Consideration of the 2008 Meeting Schedule.**

19
20 (19:51:45) Chair Holtkamp stated that the intent was for the Board to meet at a minimum on the
21 second Thursday of the months of January, April, July, and October. Subject to the inevitability
22 that not all Board Members would be able to be present, staff should be given an indication as to
23 whether to move forward.

24
25 (19:52:24) ***Board Member Wilde moved to approve the schedule for next year as written on the***
26 ***agenda. Board Member Ul-Hasan seconded the motion. Vote on motion: James Holtkamp-***
27 ***Aye, Robert Good-Aye, Paul Throndsen-Aye, Debbie Tyler-Aye, Bob Wilde-Aye, Noor Ul-***
28 ***Hasan-Aye. The motion passed unanimously.***

29
30 **4. Adjournment.**

31
32 The Board of Adjustment Meeting adjourned at 7:52 p.m.

1 *I hereby certify that the foregoing represents a true, accurate, and complete record of the*
2 *Cottonwood Heights City Board of Adjustment Meeting held Thursday, November 29, 2007.*
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9 Teri Forbes
10 T Forbes Group, Inc.
11 Minutes Secretary
12
13

14 Minutes approved: 2/1/08 sm